

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

14 MISC. 0337

IN THE MATTER OF THE APPLICATION OF
RUCHAMA AZOULAY FOR AN ORDER TO TAKE
DISCOVERY PURSUANT TO 28 U.S.C. §1782

Case No. _____ JUDGE ROMAN

**EX PARTE APPLICATION FOR AN ORDER TO TAKE
DISCOVERY PURSUANT TO 28 U.S.C. § 1782**

JEROLD ROTBARD, an attorney duly admitted to practice law before the Federal Courts of the Southern District of New York and the Courts of the State of New York affirms under penalty of perjury as follows:

1. I am a member of the firm, Harold, Salant, Strassfield & Spielberg, the attorneys for RUCHAMA AZOULAY. I make this application on behalf of Ms. Azoulay and in support of her request for an order to obtain discovery for use in a foreign tribunal pursuant to 28 U.S.C. § 1782.

2. Ruchama Azoulay is a party to a divorce proceeding that is pending in the Family Court of the Rishon Lezion in the Country and State of Israel, Court File No. 46545-08-10. That proceeding was brought against her husband, Eliyahu Azoulay. According to the attached documents that have been issued by the Israeli court, Ms. Azoulay is labeled the "Applicant" and Mr. Azoulay is labeled the "Respondent."

3. Attached as Exhibit "A" is a certified translation, with apostille, of a document entitled "Court Order to Produce

Documents" together with the Order written in Hebrew. The translation provides that the Order was issued by Judge Eilat Golan Tavori on August 9, 2014 and bears the stamp of the Head Secretary of the Family Court, Rishon Lezion dated 9-9-2014. The Order is addressed to Mr. Sal Attina, director of the books and record of the Respondent, and directs the production of various categories of documents related to the Respondent's businesses and companies, to wit, Ideal Locksmith Inc., Westchester Lock & Door Inc. and Westchester Locksmith Inc.

4. Attached as Exhibit "B" is a certified translation, with apostille, of a document entitled "Court Order to Produce Documents" together with the Order written in Hebrew. The translation provides that the Order was issued by Judge Eilat Golan Tavori on August 9, 2014 and bears the stamp of the Head Secretary of the Family Court, Rishon Lezion dated 9-9-2014. The Order is addressed to Wachovia Bank/Wells Fargo in Yonkers, New York, Chase Bank, Citibank, American Express Card and Discover Credit Card. It directs the production of various categories of documents related to the Respondent's bank accounts and credit cards in the Respondent's individual name or in variations of his individual name.

14. By this application, Ms. Azoulay seeks to obtain the documents that have been ordered to be disclosed pursuant to the Israeli Orders.

15. Ms. Azoulay requests that this Court grant the Proposed Order submitted herewith and direct that a subpoena be issued to

each entity for the document production as detailed therein. Proposed subpoenas for each entity collectively are attached hereto as Exhibit "C."

16. An order seeking discovery pursuant to 28 U.S.C. § 1782 is warranted if the following elements have been shown: (1) that the person from whom discovery is sought resides (or is found) in the district of the district court to which the application is made, (2) that the discovery be for use in a proceeding before a foreign tribunal, and (3) that the application be made by a foreign tribunal or international tribunal or any "interested person."

17. Each of the entitles from which discovery is sought is located in the Southern District of New York. Mr. Sal Attina is located at 909 Midland Avenue, 3rd Floor, Yonkers, New York 10704. Each of the financial institutions, to wit, Wachovia Bank/Wells Fargo, Chase Bank, Citibank, American Express Card and Discover Credit Card, do business throughout New York, including the counties within the Southern District of New York.

18. The evidence sought has been ordered by the Family Court of Rishon Lezion, Country and State of Israeli, to be produced for use in a divorce proceeding before that tribunal, a "foreign tribunal" within the meaning of 28 U.S.C. § 1782.

20. Ms. Azoulay is an "interested person" within the meaning of 28 U.S.C. § 1782 because she the Applicant who had been granted the relief set forth in the Israeli Orders .

21. The relief requested herein is not unduly intrusive or burdensome. The documents requested are documents of a financial nature that would bear upon the issues in a divorce action. The

Orders essentially require the production of tax returns, W-2's, 1009's, bank statements, credit card statements, income/profit and loss statements, checks, and banking transactions for Mr. Azoulay and his businesses.

22. Consequently, all the elements for an order seeking discovery pursuant to 28 U.S.C. § 1782 have been satisfied and it would be a proper exercise of discretion for this Court to permit the discovery requested.

23. Furthermore, as shown in the accompanying Memorandum of Law, it is permissible for Ms. Azoulay to submit an *ex parte* application under Section 1782 and for this Court to issue an *ex parte* order granting the discovery requested. The *ex parte* procedure is permissible because, in the event the subpoenaed party chooses not to comply with the requests for documents and deposition, it retains the right to seek to quash or modify the subpoena.


24. No previous application for similar relief has been made.

WHEREFORE, Applicant Ruchama Azoulay prays for an order of this Court

(1) granting discovery pursuant to 28 U.S.C. § 1782, as detailed in the proposed subpoenas; and

(2) granting such other and farther relief as to this Court seems just and proper. I declare under penalty of perjury that the foregoing is true and correct.

Dated: White Plains, New York
October 3, 2014



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